

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

# UNITED STATES DISTRICT COURT

for the

BAKER, DANIEL, A.

Petitioner

v.

Case No. \_\_\_\_\_

(Supplied by Clerk of Court)

BOWERS, WARDEN, FCI MEMPHIS

Respondent

(name of warden or authorized person having custody of petitioner)

## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

### Personal Information

1. (a) Your full name: DANIEL ALAN BAKER  
 (b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
 (a) Name of institution: FCI MEMPHIS  
 (b) Address: P.O. BOX 34550  
MEMPHIS, TN 38124  
 (c) Your identification number: 25765-504
3. Are you currently being held on orders by:  
☒ Federal authorities    ☐ State authorities    ☐ Other - explain: \_\_\_\_\_
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
 If you are currently serving a sentence, provide:  
 (a) Name and location of court that sentenced you: N.D. OF FLORIDA, TALLAHASSEE DIV.  
111 N. ADAMS ST., TALLAHASSEE FL 32301  
 (b) Docket number of criminal case: 4:21-MJ-09-MAF  
 (c) Date of sentencing: 10/12/2021  
☐ Being held on an immigration charge  
☐ Other (explain): \_\_\_\_\_

### Decision or Action You Are Challenging

5. What are you challenging in this petition:  
☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): \_\_\_\_\_

## 6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: BUREAU OF PRISONS, WASHINGTON, D.C.  
FCI MEMPHIS, MEMPHIS, TN

(b) Docket number, case number, or opinion number: \_\_\_\_\_

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

CALCULATION OF FTC CREDITS PURSUANT TO THE FIRST STEP ACT OF 2018.  
AS OF 8/12/22 PETITIONER HAS EARNED 150 DAYS OF TIME OFF FOR 10 MONTHS  
OF EBRR PROGRAMMING AND/OR LOW PATTERN SCORE, STAFF GAVE 60 DAYS.(d) Date of the decision or action: AUGUST 13 2022

## Your Earlier Challenges of the Decision or Action

## 7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: WARDEN, FCI MEMPHIS(2) Date of filing: 9/2/22

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: NO RESPONSE WITHIN 20 DAYS PURSUANT TO 28CFR 542.18(5) Date of result: 9/22/22(6) Issues raised: THE BOP MISCALCULATED MR. BAKER'S FTC CREDITS  
UNDER THE FIRST STEP ACT OF 2018. AS OF SEPTEMBER 2, 2022  
PETITIONER HAD COMPLETED SUFFICIENT PROGRAMMING TO  
QUALIFY FOR 150 DAYS SENTENCE REDUCTION, RESULTING  
IN AN ESA RELEASE DATE OF 10/3/23. HOWEVER THE BOP  
HAD ONLY AWARDED HIM 60 DAYS, WHICH IMPROPERLY  
LENGTHENS HIS TIME IN CUSTODY. (SEE EXH. E)

(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_

## 8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: BOP MID-ATLANTIC REGIONAL OFFICE, ANNAPOLIS JUNCTION, MD
- (2) Date of filing: 9/29/22
- (3) Docket number, case number, or opinion number: N/A
- (4) Result: NO RESPONSE WITHIN 30 DAYS PURSUANT TO 28CFR 542.18
- (5) Date of result: 10/29/22
- (6) Issues raised: BOP MISCALCULATED MR. BAKER'S FTC CREDITS UNDER THE FIRST STEP ACT OF 2018. AS OF 9/29/22 PETITIONER HAD COMPLETED SUFFICIENT PROGRAMMING TO QUALIFY FOR 165 DAYS SENTENCE REDUCTION, RESULTING IN AN FSA RELEASE DATE OF 9/18/23. HOWEVER THE BOP ONLY AWARDED HIM 60 DAYS, WHICH IMPROPERLY LENGTHENS HIS TIME IN CUSTODY. (SEE EXH F-BP10).

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: BOP CENTRAL OFFICE, WASHINGTON, D.C.
- (2) Date of filing: 11/4/22
- (3) Docket number, case number, or opinion number: N/A
- (4) Result: BY 12/14/22 NO RESPONSE WITHIN 40 DAYS
- (5) Date of result: 12/14/22
- (6) Issues raised: BOP MISCALCULATED MR. BAKER'S FTC CREDITS UNDER THE FIRST STEP ACT OF 2018. AS OF NOVEMBER 4, 2022, PETITIONER HAD COMPLETED SUFFICIENT PROGRAMMING TO QUALIFY FOR 180 DAYS SENTENCE REDUCTION, RESULTING IN AN FSA RELEASE DATE OF 9/3/23. HOWEVER THE BOP ONLY AWARDED HIM 60 DAYS WHICH IMPROPERLY LENGTHENS HIS TIME IN CUSTODY.

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes☐ No

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If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

# 11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

(a) Date you were taken into immigration custody: \_\_\_\_\_

(b) Date of the removal or reinstatement order: \_\_\_\_\_

(c) Did you file an appeal with the Board of Immigration Appeals? \_\_\_\_\_

☐ Yes☐ No

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If "Yes," provide:

(1) Date of filing: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Issues raised: \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

**12. Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** BOP MISCALCULATED BAKER'S FTC CREDITS UNDER FSA. AS OF 1/14/22 BAKER QUALIFIES FOR 210 DAYS SENTENCE REDUCTION. BOP ONLY AWARDED HIM 60 DAYS, WHICH IMPROPERLY LENGTHENS HIS SENTENCE. THIS VIOLATES DIRECTIVES FROM CONGRESS. (SEE EXH A,B).

(a) Supporting facts (Be brief. Do not cite cases or law.):

BAKER HAS BEEN ACTIVELY PARTICIPATING IN EVIDENCE BASED RECIDIVISM REDUCTION PROGRAMMING ON A DAILY BASIS SINCE 10/12/21. BAKER HAS A "LOW" RISK OF RECIDIVISM, QUALIFYING HIM FOR 15 DAYS OF FSA CREDITS FOR EVERY 30 DAYS IN BOP CUSTODY. HE WILL CONTINUE TO EARN CREDITS UNTIL HIS RELEASE.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

**GROUND TWO:** THE BOP REFUSES TO AWARD THE FTC CREDITS THAT MR. BAKER IS CONTINUING TO EARN.

(a) Supporting facts (Be brief. Do not cite cases or law.):

BAKER CONTINUES TO PARTICIPATE IN PROGRAMS BUT IS NOT RECEIVING THOSE CREDITS WHICH MEANS HE WILL SERVE TOO MUCH TIME IN BOP CUSTODY. IF THE BOP IS ALLOWED TO DELAY HIS RELEASE HE WILL EVENTUALLY HAVE NO REMAINING SENTENCE TO APPLY CREDITS TO AND WILL BE IRREPARABLY HARMED.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

**GROUND THREE:** THE BOP IS REFUSING TO AWARD MR. BAKER FSA CREDITS UNDER THEIR SPECIAL COVID/LOCKDOWN/WAIT LIST PROVISIONS, DESPITE HIM BEING INVOLUNTARILY SUBJECT TO ALL OF THOSE CIRCUMSTANCES.

(a) Supporting facts (Be brief. Do not cite cases or law.):

WITH THOSE PROVISIONS AND FUTURE CREDITS BAKER WILL EARN HE WILL BE ELIGIBLE FOR IMMEDIATE RELEASE ON 4/6/23, AND IS CURRENTLY ELIGIBLE FOR RELEASE ON OR BEFORE 5/2/23. AFTER THAT HE WILL HAVE NO REMAINING SENTENCE TO APPLY CREDITS TO AND WILL BE IRREPARABLY HARMED BY THE BOP'S DELIBERATE INDIFFERENCE.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☐ No



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**GROUND FOUR:** THE BOP WILL NOT ACTIVELY MONITOR BAKER'S SENTENCE AWARD FTC CREDITS WHILE HE IS IN RRC OR HALFWAY HOUSE CUSTODY.

(a) Supporting facts (Be brief. Do not cite cases or law.):

THIS FAILURE TO CONTINUE TO AWARD FTC CREDITS WHILE IN RRC CUSTODY WILL RESULT IN BAKER OVERSERVING HIS SENTENCE BY MANY WEEKS OR MONTHS. BY THE TIME OF HIS PLACEMENT IN PRE-RELEASE RRC, HIS RELEASE DATE AND HOME DETENTION DATE WILL LIKELY HAVE PASSED AND HE WILL SUFFER IRREPARABLE HARM.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: LACK OF FTC CALCULATION ONCE PLACED IN RRC CUSTODY HAS NOT ACCURED, AND THEREFORE CANNOT BE PURSUED THROUGH THE BOP ADMINISTRATIVE REMEDY PROCESS.

#### Request for Relief

15. State exactly what you want the court to do: BAKER REQUESTS THAT THE COURT IMMEDIATELY AWARD THE 210 DAYS OF FTC CREDITS AND ISSUE AN ORDER DIRECTING THE BOP TO APPLY THOSE CREDITS TO BAKER'S RELEASE DATE. ALSO, BAKER REQUESTS THAT THE COURT ORDER THE BOP TO IMMEDIATELY TRANSFER BAKER TO RRC IN LIGHT OF THE FTC CREDITS HE WILL CONTINUE TO EARN.

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**Declaration Under Penalty Of Perjury**

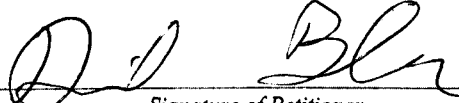
If you are incarcerated, on what date did you place this petition in the prison mail system:

12/28/22

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

12/28/22

  
Signature of Petitioner

\_\_\_\_\_  
Signature of Attorney or other authorized person, if any